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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Paper No. 20

Application Number: 09/807,322  
Filing Date: February 13, 2002  
Appellant(s): CHIBA ET AL.

\_\_\_\_\_  
Lyndanne Whalen  
For Appellant

**EXAMINER'S ANSWER**

**MAILED**

**AUG 11 2003**

**GROUP 1700**

This is in response to the appeal brief filed 5-22-03.

Art Unit: 1711

**(1) *Real Party in Interest***

A statement identifying the real party in interest is contained in the brief.

**(2) *Related Appeals and Interferences***

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

**(3) *Status of Claims***

The statement of the status of the claims contained in the brief is correct.

**(4) *Status of Amendments After Final***

No amendment after final has been filed.

**(5) *Summary of Invention***

The summary of invention contained in the brief is correct.

**(6) *Issues***

The appellant's statement of the issues in the brief is correct.

**(7) *Grouping of Claims***

Appellant's brief includes a statement that claims 5-14 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

**(8) *Claims Appealed***

The copy of the appealed claims contained in the Appendix to the brief is correct.

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**(9) Prior Art of Record**

**DE 19,708,570**                      **ROTERMUND et al.**                      **9-1998**

**4,275,172B**                      **BARTH et al.**                      **6-1981**

**(10) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 5-11 are rejected under 35 U.S.C. 102(b) as being anticipated by DE 19,708,570.

DE 19,708,570 discloses preparations of rigid foams from polyols blended with cyclopentane and water wherein the cyclopentane is dispersed in the polyol component before reaction in a manner which reads on the processes of the claims (see the entire document).

Claims 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Barth et al.(4,275,172).

Barth et al. discloses an apparatus for blending reactive mixtures in polyurethane preparations (see column 3, as well as, the entire document). No difference is seen between the mixing devices claimed and that utilized by Barth et al.

**(11) Response to Argument**

Appellants' arguments with respect to claims 5-11 have been considered.

However, rejection is maintained.

Appellants argue that the employment of cyclopentane is not envisioned by DE 19,708,570. However, DE 19,708,570 cites ample disclosure of the employment of cyclopentane, and, further, employs comparative examples which differ from the inventive features of DE 19,708,570 only in that cyclopentane is employed. Utilization of cyclopentane in a manner anticipatory of appellants' claims is maintained.

Appellants argue that the blending of this reference does not meet the dispersions of the claims. However, difference between the claims degree of blending and the blending of this reference is not seen in a patentable sense. Appellants' descriptive differentiation between dispersions and solutions can not be read into the claims as a limitation as the dispersion is currently defined. Further, the fact the the examples do not show emulsions does not negate the references recitation of emulsions being employed.

Appellants' arguments with respect to claims 12-14 have been considered.

However, rejection is maintained.

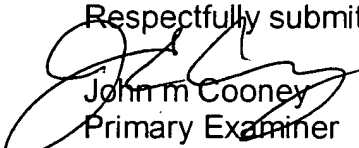
Appellants argue that figure 1 of the reference lacks a high pressure circulating line. However, the reference as a whole teaches a static mixer to be in the line from the polyol feed tank to the reaction mold, and the system is under pressure. This disclosure is maintained from the position of patentability to anticipate the apparatus defined by

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applicant's claims without further limiting definition of the "high pressure circulating line" being provided in the claims. Stated another way, the placement of a static mixer (86) between the catalyst injector (76) and the froth applicator (87) reads on the placement of the static mixer in the high pressure circulating line as claimed, because the mixer is within the circulating line and is still under pressure at this position.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,




John M. Cooney  
Primary Examiner  
Art Unit 1711

JMC

August 7, 2003

Conferees



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